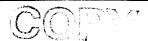
## EXHIBIT D

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IN THE UNITED STATES DISTRICT COURT
1
 2
                  FOR THE DISTRICT OF DELAWARE
 3
     MONA DOBRICH and MARCO
 4
     DOBRICH, Individually and
     as parents and next friend
 5
     of ALEXANDER DOBRICH,
     SAMANTHA DOBRICH, JANE DOE
 6
     and JOHN DOE, Individually
     and as parents and next
7
     friend of JORDAN DOE and
     JAMIE DOE,
 8
 9
                 Plaintiffs,
                                            Civil Action
                                            No. 05-120 (JJF)
10
     v.
11
     INDIAN RIVER SCHOOL,
     DISTRICT, et al.,
12
                 Defendants.
13
14
                   Videotaped Deposition of HARVEY L. WALLS,
     taken pursuant to notice at 31 Hosier Street,
     Selbyville, Delaware, beginning at 1:30 p.m., on
15
     Wednesday, October 25, 2006, before Terry Barbano
     Burke, RMR-CRR and Notary Public.
16
17
     APPEARANCES:
             THOMAS ALLINGHAM, ESQUIRE
18
             BRIAN LENHARD, ESQUIRE
19
               One Rodney Square
               Wilmington, Delaware
                                     19801
               For the Plaintiff
20
21
                          WILCOX & FETZER
22
         1330 King Street - Wilmington, Delaware 19801
                          (302) 655-0477
23
                          www.wilfet.com
24
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1	2
1	board
2	A. I did not recommend that all these other pages
3	be part of the policy.
4	Q. In making that recommendation and ultimately
5	voting to adopt policy BDA.1 on school board prayer,
6	did you take into consideration as one factor in your
7	decision the material provided by Mr. Neuberger in
8	PX-34?
9	A. Well, obviously I considered the last two
10	pages.
11	Q. Yes, that seems clear. Did you also take into
12	account the materials provided in the first four pages
13	of the fax?
14	A. I certainly read them.
15	Q. And did you take them into account?
16	A. Yes.
17	Q. The information provided was one of the
18	factors that you considered in voting to adopt the
19	policy; is that right?
20	A. Yes.

21

22

23

24

On Page 2 of Mr. Neuberger's memo, about

two-thirds of the way down the page in the last whereas

clause on that page, PX-34 reflects, "The school board

has retained the legal advice" -- sorry. I'll start

again.

"The school board has obtained the legal advice of two competent and experienced constitutional attorneys, John W. Whitehead, Esquire, and Thomas S. Neuberger, Esquire, that prayer to open board meetings is constitutional in the United States Court of Appeals for the Third Circuit, which includes Delaware, and legal counsel have identified the following legal authority in support of their legal opinion."

- A. Yes, sir.
- Q. That legal authority and legal opinion is the material in this fax up to the five numbered paragraphs at the end; is that correct?
  - A. Right.
- Q. And that's what you, one of the factors that you relied on in voting to adopt the policy?
- A. Yes.
- Q. So I take it that the whereas clause that I just read to you is, in your view, accurate?
- A. Yes.
  - Q. On the next page in the fourth full paragraph -- it's a short paragraph -- Mr. Neuberger's materials read, "It is the opinion of legal counsel that since the Indian River School Board of Education